

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CP (IB) -153/I&BP/MB/2018

Under Section 7 of the I&B Code,  
2016

In the matter of

Punjab National Bank,  
Head Office at Plot No. 4, Sector  
10, Dwarka New Delhi - 110075  
Branch at ARMB, PNB Pragati  
Tower, First Floor, C-9, G Block,  
BKC Bandra East, Mumbai -  
400051

.... Petitioner

Vs.

Sheth Metal Pvt. Ltd.  
43, Laxmi Niwas, 2<sup>nd</sup> Panjara  
Pole, 2<sup>nd</sup> Floor, Mumbai -  
400004.

.... Respondent

Order delivered on: 06.06.2018

**Coram:**

Hon'ble Mr. Bhaskara Pantula Mohan, Member (J)  
Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Petitioner: Ms. Priyanka Patil, Advocate i/b Intralegal  
For the Respondent: Mr. Indrajeet Hingane, Advocate a/w Adv.  
Anusha Parekh i/b Apex Law Partners.

**ORDER**

*Per: V. Nallasenapathy, Member (T)*

1. Punjab National Bank (hereinafter called 'PNB') has sought the Corporate Insolvency Resolution Process of Sheth Metal Private Limited (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 30.11.2017 onwards in repayment of various facilities granted to the Corporate Debtor to the extent of ₹33,85,20,047.32/-, under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. Punjab National Bank has enclosed sanction letters dated 13.6.2008, 16.11.2009, 29.11.2011 and 29.6.2012 which shows that





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certain facilities were granted to the Corporate Debtor by the Petitioner. The latest sanction letter dated 29.6.2012 shows the following are the credit facilities restructured by the Corporate Debtor.

Sr. No.	Limits	Existing ₹ in lakhs	Proposed ₹ in lakhs	Remarks
1.	TL	163.27	159.00	To be rescheduled by allowing moratorium period of 1 year principal instalment and repayable in 36 months starting from June 2013, interest to be recovered as and when debited.
2.	WC (FV)	1,500.00 (o/s 1,559.71)	800.00	Working Capital CC limits by way of carving out WCTL of ₹700 lacs. Repayable in 60 monthly instalment starting from Dec. 2013 interest to be recovered as and when debited.
3.	WCTL	—	700.00	By converting Principal irregularity in CC. Account repayable in 560 monthly instalment starting from DEC 2013. Interest to be recovered as and when debited.
4.	FITL	—	64.00	By conversion of unpaid interest for TL & CC. Repayable in 60 monthly instalment starting from Dec. 2013. Interest to be recovered as and when debited.
Total/Ceiling Outstanding		1,667.02 (1722.98)	1,723.00 —	

3. The Petitioner has enclosed various security documents connected with the sanction of loan on various dates. The following documents were enclosed with the Petition in respect of the sanction letter dated 29.12.2012 :

- (a) Copies of letter of continuity dated 30.6.2012;
- (b) Copy of Hypothecation of moveable assets dated 30.6.2012;
- (c) Copy of Form-8 filed with ROC for Creation of Charge;
- (d) Copy of Certificate of Registration for Modification of Charge etc. under Section 132 read with Section 135 of Companies Act, 1956.





- (e) Balance and Security Confirmation letters dated 8.5.2012 and 30.7.2012.

4. The Petitioner has enclosed notice under Section 13(2) of SARFAESI Act, 2002 demanding a sum of ₹18,68,97,043/- as on 1.4.2013 with further interest, charges etc. Further, the Petitioner enclosed the Certificate of Sale dated 30.3.2015 and 7.4.2015 wherein some of the immoveable properties of the Corporate Debtor were sold by the Petitioner under SARFAESI Act, 2002.

5. The Petition was listed for hearing on 21.3.2018 wherein there was no representation by the Corporate Debtor. The Counsel for the Petitioner was directed to inform the next date of hearing to the other side but the notice sent was returned with an endorsement 'Intimation Delivered'. Subsequently, the petitioner was directed to take out substituted service by publishing the notice in newspapers. Accordingly, the Petitioner published the notice of hearing and filed proof of service. However, there was no representation on the side of the Corporate Debtor till the hearing on 18.05.2018. But, on the hearing on 04.06.2018, though the Corporate Debtor was represented by a counsel, there was no objection from his side for admission of this petition.

6. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loan availed and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional and there being no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under sub-section (2) of section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:

- (I) (a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;





(b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

(II) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(IV) That the order of moratorium shall have effect from 06.06.2018 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33, as the case may be.

(V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

(VI) That this Bench hereby appoints Mr. Sanjay Rungta, Chartered Accountant, S P Rungta & Associates, 1104, Corporate Annexe, Sonawala Road, Goregaon, Mumbai, Maharashtra, Email:-sprungtaca@gmail.com, having Registration No. IBBI/IPA-001/IP-P00269/2017-18/10513 as





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Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

10. Accordingly, this Petition is admitted.

11. The Registry is hereby directed to communicate this order to both the parties within seven days from the date order is made available.

Sd/-

V. NALLASENAPATHY  
Member (T)

Sd/-

BHASKARA PANTULA MOHAN  
Member (J)